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FM AMEMBASSY COLOMBO
TO RUEHC/SECSTATE WASHDC 6793
INFO RUCPDO/DEPT OF COMMERCE WASHDC
RUEHNE/AMEMBASSY NEW DELHI 1350
RUEHKA/AMEMBASSY DHAKA 0398
RUEHIL/AMEMBASSY ISLAMABAD 7386
RUEHKT/AMEMBASSY KATHMANDU 5509
RUEHKP/AMCONSUL KARACHI 2240
RUEHCG/AMCONSUL CHENNAI 7982
RUEHGV/USMISSION GENEVA 2310
RUEHLMC/MILLENNIUM CHALLENGE CORP

UNCLAS COLOMBO 001252

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STATE FOR SCA/INS AND EB/TPP/IPE
STATE PASS USTR FOR DARLA BROWN AND ADINA ADLER
MCC FOR D NASSIRY AND E BURKE
GENEVA PASS USTR

E.O 12958: N/A

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SUBJECT: SRI LANKA: SUCCESS IN GARMENT IPR CASES; LESS PROGRESS IN
MUSIC AND SOFTWARE

REF: COLOMBO 128

11. Summary: US apparel brands have found some level of success in combating piracy in Sri Lankan courts. In August 2007, the Colombo Commercial High Court issued an order in settlement in favor of Polo/Lauren, LLP, the largest IPR enforcement case in the apparel sector to date. Other companies are also finding success in the court system; however, penalties remain relatively low. End summary.

Favorable Decision for Polo/Lauren LLP

12. In August 2007, the Colombo Commercial High Court issued an order in settlement of the largest IPR enforcement case in the apparel sector. The court ordered local company Jinesha Garments (Pvt) Ltd to pay Polo/Lauren LLP Rs 1.25 million (approximately USD 11,200), required Jinesha to deface the logos of its fake "Polo" garments, and required Jinesha to agree to refrain from using the Polo trademark in the future. This case was initiated following a police raid which seized over 17,000 counterfeit Polo brand T-shirts from Jinesha Garments (reftel). The company had been producing fake "Polo" garments for more than three years on order from a local businessman. The business subsequently exported the fakes, primarily to the United States.

Successes Coming, Albeit Slowly

13. Sudath Perera, a local lawyer representing Polo/Lauren as well as several other leading apparel brands, told EconOff that his company has recently had other successes in IPR enforcement. In addition to Jinesha Garments, at least ten manufacturers, exporters or retail outlets dealing with fake "Polo" garments were taken to court during 2005-2007, five of which were settled successfully in the petitioner's favor. Others are pending. Similarly Perera, on behalf of his clients, charged five local entities for the sale of fake Victoria's Secret garments. Among the violators are well known high-end retail outlets in Colombo. To date, one of these cases was settled.

14. Comment: These cases, while a positive step, demonstrate that the onus of combating piracy lies with the rights holders. The

Jinesha factory was raided only after Polo/Lauren LLP complained to the police. Initiative by Police or Customs is rare. And while the garment sector is pleased that at least some action is being taken, the penalties are too low and the lack of political will to fight IPR violations continues to hurt companies' bottom line. Recently, U.S. music and software industry representatives stated that insufficient government enforcement against IPR violations was harming their ability to work in Sri Lanka. The software industry is looking into creative ways to engage the local industry in the hopes that it can encourage a greater response by the government.

15. Comment, Con't. The Embassy and the American Chamber of Commerce continue to address these problems locally. AmCham, working closely with embassy, developed and is now implementing a well-received IPR awareness campaign in print, radio, and television. Post continues to promote this issue in both high-level meetings and at the working level. Earlier this year post arranged for IPR training for magistrates; USDA has also provided Ag-focused IPR training for Sri Lankan officials. Post will continue to look for further such activities to increase awareness and positive action locally.

BLAKE